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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,952	06/08/2004	James William Bishop Jr	ARMP0002	3951

EXAMINER
HENEGHAN, MATTHEW E

ART UNIT	PAPER NUMBER
2134	

MAIL DATE	DELIVERY MODE
07/18/2007	PAPER

7590 07/18/2007
Chief Technology Officer, ArmorPost
Suite 200
8430 Terrapin Trail
Colorado Springs, CO 80919

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/709,952	BISHOP ET AL.	
	Examiner	Art Unit	
	Matthew Heneghan	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,7,10,14,16-20,24 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 28 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,7,10,14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In response to the previous office action, Applicant has amended claims 1, 2, 6, 7, 10, 14, 16, 17, 19, 20, 24, and 28 and cancelled claims 3-5, 8, 9, 11-13, 15, 21-23, and 25-27. Claims 1, 2, 6, 7, 10, 14, 16-20, 24, and 28 have been examined.
2. A typographical error has been noted in the Interview Summary mailed 7 May 2007. The second sentence of the Substance of the Interview should read "No agreement was reached."
3. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$250 (cost is as of 6 July 2007).

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing

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a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "registered to it" is indefinite because it is unclear what "it" is. For purposes of this office action, it is being presumed that this refers to the trusted courier of the preamble of claim 2.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,873,977 to Aggarwal.

As per claims 1 and 19, Aggarwal discloses a transaction system over the Internet (see abstract), which is a packet network, wherein a buyer, at what constitutes a private message agent, selects a seller, which is likewise a private messaging agent, relaying the encrypted transaction over several hops, with each hop decrypting and verifying a portion of the message, which are trusted couriers (see column 4, line 43 to column 5, line 5; the mechanisms in column 6, lines 1-19 ensure that they have trusted relationships with both agents and one another). The access restrictions (trusted courier information, keys, etc.) are communicated to all parties using a program $Aplic_1$, which constitutes the background element; the order itself (i.e. the message) is separately transmitted using the program $Aplic_2$, which constitutes the foreground element (see column 6, line 32 to column 7, line 19).

As per claim 20, the content encryption keys, S , are propagated to the trusted couriers and eventually the recipient agent. They are used to relay the private

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messages from one trusted courier to another (see column 4, line 48 to column 5, line 3).

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,834,341 to Bahl et al.

Bahl discloses a packet network (Internet access) in which an authentication/negotiation component (the trusted courier) relays private messages for users to access the network via the messaging agents (see abstract). Users that are not authenticatable locally may be deferred to a global authentication database (see column 6, line 1 to column 7, line 24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,873,977 to Aggarwal.

Aggarwal discloses that the trusted couriers may associate with multiple coding stations (different companies). Since different companies do not share domains, there is

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no constraint on address domains (see column 5, lines 42-49). Aggarwal discloses that in the event that the user does not already have an account, an on-line registration form (an Invitation to Register) is sent to the user, who completes the form. This is then processed with $Aplic_2$ being created using $Aplic_1$ (see column 6, line 62 to column 7, line 1).

Aggarwal does not disclose what happens in the event of a rejection.

Official notice is given that it is well-known in the art to provide for error conditions, for system integrity.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Aggarwal to reconcile an error condition such as a rejection, as is well-known in the art, for system integrity.

8. Claims 2, 14, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,873,977 to Aggarwal as applied to claim 1 et al. above and further in view of U.S. Patent Application Publication No. 2002/0152383 to Walsh et al.

Regarding claim 2, since Aggarwal discloses the use of encrypted transmissions between the various nodes, the foreground and background elements must comprise information security components, as encryption and decryption are done locally (see column 5, lines 63-65). Non-repudiable certificates, which are authentication credentials, are used in all transactions along the chain (see column 6, lines 1-4).

Aggarwal does not state that the certificates involve encryption/authentication.

Walsh discloses the use of public key cryptography for certificate signing and non-repudiation (see paragraph 7) and notes that cryptographic signatures provide a very secure data integrity mechanism (see paragraph 4).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the invention of Aggarwal by using cryptographic certificates, as per Walsh, as cryptographic signatures provide a very secure data integrity mechanism.

Once the applications are instantiated, no user involvement is necessary.

As per claims 14 and 18, Aggarwal discloses that in the event that the user does not already have an account, an on-line registration form (an Invitation to Register) is sent to the user, who completes the form. This is then processed with $Aplic_2$ being automatically created using $Aplic_1$ (see column 6, line 62 to column 7, line 1).

Regarding claims 16 and 17, Aggarwal discloses a form for the user to fill out in the registration process (see column 6, lines 64-66), but does not detail the information that should be retrieved in the form. Since there is a check if the user is previously registered (see column 6, lines 63-64), this registration must result in the construction of permanent customer account information. An application, $Aplic_1$, is downloaded to the user for order processing (see column 6, lines 32-34), which later is executed to create $Aplic_2$ and select trusted couriers, set up and activate accounts for the user with the trusted couriers, and create (store) and distribute keys (see column 6, line 50 to column 7, line 19). All transmissions to and from the trusted couriers are verified with signatures and certificates, as described above, thus indicating that an agent has been installed

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correctly. The distributed material may be used indefinitely for future use in follow-up transactions (see column 7, lines 27-37). Since Aggarwal does not disclose that the agents only work for a certain amount of time, it is obvious that they persist indefinitely after installation.

Allowable Subject Matter

9. Claims 24 and 28 are allowed.

10. The following is an examiner's statement of reasons for allowance: Claim 24 as amended is allowance for the reasons stated by Applicant (see Remarks, filed 1 May 2007). No further art could be found that would render the claim obvious. Claim 28 is allowable based upon its dependence upon claim 24.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

11. In response to applicant's argument that Aggarwal is used for a different purpose (i.e. anonymous transactions), a recitation of the intended use of the claimed invention

must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a user only being able to associate with one courier) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. In response to applicant's amendments to claims 1 and 19, the amendments to the recitations have not been given patentable weight because the recitations occur in the preambles. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

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13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand, can be reached at (571) 272-3811.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-3800

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Matthew Heneghan/

July 8, 2007

Patent Examiner (FSA), USPTO Art Unit 2134